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REGISTER, and other means will be used to notify prospective applicants of the opportunity to obtain permits under the limited access management program.

(3) A period of 90 days will be provided after publication of the FEDERAL REGISTER notice for submission of new applications for a limited access permit.

(4) Limited access permits issued under this paragraph (g) will be issued first to applicants qualifying under paragraph (g)(4)(i) of this section. If the number of limited access permits available is greater than the number of applicants that qualify under paragraph (g)(4)(i) of this section, then limited access permits will be issued to applicants under paragraph (g)(4)(ii) of this section.

(i) First priority to receive limited access permits under this paragraph (g) goes to owners of vessels that were used to land lobster from Permit Area 1 during the period 1983 through 1990, and who were excluded from the fishery by implementation of the limited access system. If there are insufficient permits for all such applicants, the new permits shall be issued by the Regional Administrator through a lottery.

(ii) Second priority to receive limited access permits under paragraph (g) goes to owners with the most points, based upon a point system. If two or more owners have the same number of points and there are insufficient permits for all such owners, the Regional Administrator shall issue the permits through a lottery. Under the point system, limited access permits will be issued, in descending order, beginning with owners who have the most points and proceeding to owners who have the least points, based on the following:

(A) Three points shall be assigned for each calendar year after August 8, 1985, that the applicant was the operator of a vessel that was used to land lobster from Permit Area 1.

(B) Two points shall be assigned for each calendar year or partial year after August 8, 1985, that the applicant was the owner, operator, or crew member of a vessel engaged in either commercial fishing in Permit Area 2 for lobster, or fishing in Permit Area 1 for fish other

than lobster with an intention to sell all or part of the catch.

(C) One point shall be assigned for each calendar year or partial year after August 8, 1985, that the applicant was the owner, operator, or crew member of a vessel engaged in any other commercial fishing in the EEZ surrounding Hawaii.

(5) A holder of a new limited access permit must own at least a 50-percent share in the vessel that the permit would cover.

[61 FR 34572, July 2, 1996. Redesignated at 71 FR 17989, Apr. 10, 2006 and amended at 71 FR 30299, May 26, 2006; 71 FR 53607, Sept. 12, 2006; 73 FR 70605, Nov. 21, 2008]

§ 665.42 Prohibitions.

In addition to the general prohibitions specified in § 600.725 of this chapter and § 665.16, it is unlawful for any person to do any of the following:

(a) In Permit Area 1, it is unlawful for any person to—

(1) Fish for, take, or retain lobsters—

(i) Without a limited access permit issued under § 665.41;

(ii) By methods other than lobster traps or by hand for lobsters, as specified in § 665.48;

(iii) From closed areas for lobsters, as specified in § 665.46;

(iv) During a closed season, as specified in § 665.45; or

(v) After the closure date, as specified in § 665.50, and until the fishery opens again in the following calendar year.

(vi) In a lobster grounds after closure of that grounds as specified in § 665.50(b).

(2) Fail to report before landing or offloading as specified in § 665.43.

(3) Fail to comply with any protective measures implemented under § 665.51 or § 665.52.

(4) Leave a trap unattended in the Management Area except as provided in § 665.48.

(5) Maintain on board the vessel or in the water more than 1,200 traps per fishing vessel, of which no more than 1,100 can be assembled traps, as specified in § 665.48.

(6) Land lobsters taken in Permit Area 1 after the closure date, as specified in § 665.50, until the fishery opens again the following year.

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(7) Refuse to make available to an authorized officer and employee of NMFS designated by the Regional Administrator for inspection and copying any records that must be made available in accordance with § 665.14(f)(2).

(8) Possess on a fishing vessel that has a limited access permit issued under this subpart any lobster trap in Crustaceans Permit Area 1 when fishing for lobster is prohibited as specified in §§ 665.45(a), 665.50, 665.51, or 665.52, except as allowed under § 665.48(a)(7).

(9) Possess on a fishing vessel that has a limited access permit issued under this subpart any lobster trap in Crustaceans Permit Area 1 VMS Sub-area when fishing for lobsters is prohibited as specified in §§ 665.45(a), 665.50, 665.51, and 665.52, except as allowed under § 665.48(a)(8).

(10) Interfere with, tamper with, alter, damage, disable, or impede the operation of a VMS unit or to attempt any of the same while engaged in the Permit Area 1 fishery; or to move or remove a VMS unit while engaged in the Permit Area 1 fishery without first notifying the Regional Administrator.

(11) Make a false statement, oral or written, to the Regional Administrator or an authorized officer, regarding the certification, use, operation, or maintenance of a VMS unit used in the fishery.

(12) Fail to allow an authorized officer to inspect and certify a VMS unit used in the fishery.

(13) Possess, on a fishing vessel that has a limited access permit issued under this subpart, any lobster trap in a lobster grounds that is closed under § 665.50(b), unless the vessel has an operational VMS unit, certified by NMFS, on board.

(b) In Permit Area 2, it is unlawful for any person to—

(1) Fish for, take, or retain lobsters—

(i) By methods other than lobster traps or by hand, as specified in § 665.48; or

(ii) During a closed season, as specified in § 665.45(b).

(2) Retain or possess on a fishing vessel any lobster taken in Permit Area 2 that is less than the minimum size specified in § 665.44.

(3) Possess on a fishing vessel any lobster or lobster part taken in Permit

Area 2 in a condition where the lobster is not whole and undamaged as specified in § 665.44.

(4) Retain or possess on a fishing vessel, or remove the eggs from, any egg-bearing lobster, as specified in § 665.44.

(5) Possess on a fishing vessel that has a permit for Permit Area 2 issued under this subpart any lobster trap in Permit Area 2 when fishing for lobster in the main Hawaiian Islands is prohibited during the months of May, June, July, and August.

(c) In any Crustaceans Permit Area, it is unlawful for any person to:

(1) Fish for, take, or retain deepwater shrimp without a permit issued under § 665.41.

(2) Falsify or fail to make, keep, maintain, or submit Federal reports and records of harvests of deepwater shrimp as required under § 665.14.

[61 FR 34572, July 2, 1996, as amended at 62 FR 35449, July 1, 1997; 63 FR 20540, Apr. 27, 1998; 64 FR 36822, July 8, 1999; 70 FR 29657, May 24, 2005; 73 FR 70605, Nov. 21, 2008]

§ 665.43 Notifications.

(a) The operator of any vessel subject to the requirements of this subpart must:

(1) Report, not less than 24 hours, but not more than 36 hours, before landing, the port, the approximate date and the approximate time at which spiny and slipper lobsters will be landed.

(2) Report, not less than 6 hours and not more than 12 hours before off-loading, the location and time that off-loading of spiny and slipper lobsters will begin.

(b) The Regional Administrator will notify permit holders of any change in the reporting method and schedule required in paragraphs (a)(1) and (2) of this section at least 30 days prior to the opening of the fishing season.

§ 665.44 Lobster size and condition restrictions—Permit Area 2.

(a) Only spiny lobsters with a carapace length of 8.26 cm or greater may be retained (see Figure 3 of this subpart).

(b) Any lobster with a punctured or mutilated body, or a separated carapace and tail, may not be retained.